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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/939,695	08/28/2001	Roman S. Dabrowski	003300-823	4445

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EXAMINER

DUONG, TAI V

ART UNIT	PAPER NUMBER
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2871

DATE MAILED: 11/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/939,695

Applicant(s)

DABROWSKI ET AL.

Examiner

Tai Duong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08/23/04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-66, 69 and 70 is/are pending in the application.
- 4a) Of the above claim(s) 65 and 66 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-64 and 69 is/are allowed.
- 6) ☒ Claim(s) 70 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The rejection of claims 1, 2, 4-7 and 10-64 of the last Office action is withdrawn in view of the amendment to the claims and Applicant's remarks.

Newly amended claims 65 and 66 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Claims 65 and 66 are directed to the Species comprising a smetic, *non-chiral* anticlinic liquid crystal being uniaxial. This Species is distinct from the originally presented Species comprising an antiferroelectric liquid crystal material that is *chiral*.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 65 and 66 are withdrawn from consideration as being directed to a non-elected Species. See 37 CFR 1.142(b) and MPEP § 821.03.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 70 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Newly added claim 70 is similar to original claim 1. Therefore, claim 70 is indefinite for the same reasons applied to original claim 1 in the last Office action. Claim 1 is indefinite because it is inconsistent with the specification disclosure. The specification discloses that in order for the orthoconic AFLC to be uniaxial negative or to

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present a negative birefringence, a *horizontal tilt plane condition* is necessary.

Therefore, it is unclear how the liquid crystal material of the liquid crystal device having the structure as recited in claim 70 (i.e. without surface stabilization) can be approximately uniaxial negative or have a negative birefringence. Also, see lines 4 and 5 of the instant Abstract.

Claims 1-63 and 69 are allowed for the same reasons set forth in the last Office action.

Claim 64 is allowed because none of the prior art of record discloses or suggests an antiferroelectric liquid crystal device switchable between bright and dark states, said device comprising an AFLC material having a molecular tilt angle in an anticlinic state that is selected such that the extinction in said black state is substantially insensitive to a smectic layer orientation in different liquid crystal domains in the device.

As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Tai Duong at telephone number (571) 272-2291.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


TVD

11/04


Toan Ton
Primary Examiner
Tech Center 2800